

**REMARKS/ARGUMENTS**

**The Amendment**

**In the Specification**

Paragraph [0001] entitled "Cross Reference to Related Applications" has been amended to include reference to the parent application, to recite that the provisional application is now abandoned, and to recite that the disclosure of the parent and associated sequence listings are incorporated by reference.

Paragraph [0058] has been amended to include the full citation of the Pierson III and Thomashow, 1992, journal publication. A copy of the publication is enclosed herewith. A comparison of the information in paragraph [0058] and the publication shows that this is the correct journal citation. This journal publication is also discussed by applicants in [0217].

**Sequence Listing**

Applicants hereby request that the computer readable form (CRF) copy of the sequence listing filed September 27, 2001 be transferred from the parent application, Serial No. 09/965,175, to the instant application, and that the Patent and Trademark Office make the necessary change in application number and filing date to conform with the instant application. Included herewith as attachments are: "Request for Transfer of the Previously Filed Sequence Information," copy of "Statement of Sequence Correspondence" filed September 27, 2001 in the parent application, and paper copy of the Sequence Listing filed September 27, 2001 in the parent application.

**In the Claims**

Claims 1-7 and 10 have been canceled.

Claim 8 has been re-written in independent form. Support for this amendment can be found in original claim 1.

Docket No. 0077.04  
New Divisional Application  
Preliminary Amendment

PATENT

**Conclusion**

The foregoing amendments and remarks are being made to place the application in condition for allowance. These amendments do not introduce new matter.

Applicants respectfully request consideration and the timely allowance of the pending claims. A favorable action is awaited. Should the Examiner find that an interview would be helpful to further prosecution of this application, he is invited to telephone the undersigned at her convenience.

Respectfully Submitted,



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Enclosures:

Utility Patent Application Transmittal

Fee Transmittal (2 originals)

Application Data Sheet

Copy of Pierson III and Thomashow, *Molecular Plant-Microbe Interactions* 5:330-339, 1992

Copy of Parent Application Serial No. 09/965,175 with 5 sheets of figures

Copy of Executed Declaration for Utility or Design Application Using an Application Data Sheet (3 Pages) filed December 13, 2001 in parent application

Copy of Executed Power of Attorney or Authorization of Agent (4 Pages) filed December 13, 2001 in parent application

Copy of Thomashow and Weller recorded assignment to the United States of America, as represented by the Secretary of Agriculture, recorded in parent application December 13, 2001 Reel/Frame 012234/0389

Copy of Delaney and Mavrodi recorded assignment to Washington State University Research Foundation, recorded in parent application May 29, 2002 Reel/Frame 012942/0039

Request for Transfer of the Previously Filed Sequence Information

Copy of Statement of Sequence Correspondence filed September 27, 2001 in the parent application

Paper copy of sequence listing filed September 27, 2001 in parent application

Copy of Declaration of Deposit of Biological Material filed October 29, 2003 in the parent application

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Copy of NRRL Deposit Receipts and Viability Statements  
Information Disclosure Statement

PTO/SB/08 (3 pages) includes all references cited by applicant and examiner in the parent  
application 09/965,175